

**RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
PUBLIC NOTICE**

Pursuant to the provisions of Chapters 20-1, 42-17.1, 42-17.2 and 42-17.6 of the General Laws of Rhode Island as amended, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws of 1956, as amended, the Director of the Department of Environmental Management (DEM) proposes rulemaking relative to the **RI Hunting Regulations For The Waterfowl Season 2011-2012 RI Falconry Regulations for the 2011-2012 Season, Rules and Regulations Governing Nuisance Wildlife Control Specialists , and Rules and Regulations Governing Wildlife Rehabilitation** and gives notice of intent to hold a public hearing to afford interested parties the opportunity for public comment. Public comments will be solicited on the following proposals:

1. **Proposed adoption of the RI Falconry Regulations for the 2011-2012 Season**
2. **Proposed adoption of the RI Hunting Regulations For The Waterfowl Season 2011-2012**
3. **Proposed adoption of the Rules and Regulations Governing Nuisance Wildlife Control Specialists**
4. **Proposed adoption of the Rules and Regulations Governing Wildlife Rehabilitation**

The public hearing will be held on **Monday, August 29, 2011 at 7:00 P.M.** at the North Kingstown Community Center on Beach Street in North Kingstown (off Rt. 1A, just south of Wickford). The hearing room is accessible to the handicapped. A recording of the hearing will be made and the DEM will provide interpreter services for the hearing impaired, provided such a request is made at least 48 hours prior to the hearing date. A request for this service can be made in writing or by calling (401) 222-6800 for TDD (401) 831-5508. Written comments concerning the regulations proposed for promulgation by the DEM may also be submitted to the Division of Fish and Wildlife, 227 Great Neck Rd., West Kingston, RI 02892 no later than 12:00 PM **on August 29 2011.**

The proposed regulations will establish applicable hunting seasons, bag limits, and methods of taking migratory waterfowl, the practice of falconry, amend rules and regulations for nuisance wildlife control., and amend rules and regulations governing wildlife rehabilitation. A copy of all the proposed regulations will be available for examination from **July 29, 2011 through August 29, 2011** by mail or at the offices of the Division of Fish and Wildlife located at 277 Great Neck Rd., West Kingston, RI 02892, weekdays from 8:30 – 4:00 PM or by calling the Division at (401) 789-0281. Electronic copies of the proposed regulations will also be available on the DEM website at www.dem.ri.gov/programs/bnatres/fishwild/index.htm

Pursuant to the requirements of Section 42-35-3 of the Rhode Island General Laws, DEM has made the following determinations. DEM has considered alternative approaches to the proposed regulations and has determined that there is no alternative approach among the alternatives considered that would be as effective and less burdensome. DEM has determined that the proposed regulations do not overlap/duplicate any other State regulations. DEM has determined the proposed regulations will not result in a significant adverse economic impact on small businesses or any city or town. DEM encourages the submission of written comments on the proposed regulations and above determinations prior to the date of the public hearing. All written comments should be sent to the Department at the address indicated above and should be received no later than 12:00 PM on **August 29, 2011.**

Janet Coit
Director, Department of Environmental Management

State of Rhode Island and Providence Plantations
Department of Administration
Budget Office

Fiscal Note for Proposed Administrative Rules (R.I.G.L. Section 22-12-1.1)

Name of Administrative Rule: State of Rhode Island
Department of Environmental Management

Date of Notice: July 28, 2011

Date of Hearing: August 29, 2011

RIGL: These regulations are authorized pursuant to R.I. Gen. Laws Chapters 42-17.1, 20-1, 20-3, and 2-6 as amended, and have been promulgated pursuant to the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

FISCAL IMPACT

<i>Revenues</i>		<i>State Expenditures</i>		<i>City/Town Expenditures</i>	
FY 2011	\$ 0	FY 2011	\$ 0	FY 2011	\$ 0
FY 2012	\$ 0	FY 2012	\$ 0	FY 2012	\$ 0

Summary of Policy Change: The proposed amendments would amend the regulations governing falconry, seasons and bag limits for waterfowl hunting activities; dates and access availability for recreational users only, rules and regulations for nuisance wildlife control specialists, and wildlife rehabilitators.

Summary of Fiscal Impact: There will be no deleterious fiscal effects due to the amendment of these regulations on the state level.

City or Town Impact: There should be no impact at the municipal level .

Approved:

Thomas A. Mullaney, Executive Director/State Budget Officer
Department of Administration



**RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

235 Promenade Street, Providence, RI 02908-5767

TDD 401-831-5508

July 28, 2011

TO: Peter Dennehy, RI Department of Administration
Sherri Lynn Carrera, RI Economic Development Corporation
Kerry King, Office of the Governor

FROM: Gary Powers, Deputy Chief, Legal Services
Department of Environmental Management

SUBJECT: Economic Impact and Regulatory Flexibility

Relevant Regulations Affected:

- 1. RI Hunting Regulations for the Waterfowl Season 2011-2012**
- 2. RI Falconry Regulations for the 2011-2012 Season**
- 3. Rules and Regulations Governing Nuisance Wildlife Control Specialists**
- 4. Rules and Regulations Governing Wildlife Rehabilitation**

Authority:

Waterfowl Hunting Regulations: These regulations are adopted in accordance with Sections 20-1-4, 20-1-12 and 20-1-13, 20-2-35, 20-2-37 as well as Chapters 42-17.1 and 42-17.6, consistent with the requirements of Chapter 42-35, Administrative Procedures Act of the General Laws of 1956, as amended.

Falconry Regulations : These regulations are adopted in accordance with Sections 20-1-4, 20-1-12, and 20-1-13, as well as Chapter 42-17.1 "DEM", 42-17.6, consistent with the requirements of 42-35, Administrative Procedures Act of the General Laws of 1956, as amended.

Rules and Regulations Governing Nuisance Wildlife Control Specialists: These regulations are adopted in accordance with Sections 20-1-18 and 20-1-22 as well as Chapter 42-35 , Administrative Procedures Act of the General Laws of 1956, as amended.

Rules and Regulations Governing Wildlife Rehabilitation: These regulations are adopted in accordance with Sections 20-1-4, 20-1-18, 20-1-22, 20-37-3 as well as Chapters 42-17.1 "DEM", 42-17.6 consistent with the requirements of 42-35, Administrative Procedures Act of the General Laws of 1956, as amended.

Summary of Proposed Regulation Changes:

The Waterfowl Hunting Regulations are required pursuant to RIGL §20-1-13 to remain in effect for no longer than one year following their effective date. As such, the Department is required to promulgate these regulations annually. Regulation changes pertain to calendar date changes, hunting season and bag limits. RI Falconry Regulation changes pertain to date changes only. The Rules and Regulations Governing Nuisance Wildlife Control changes pertain to the species identification and requirements for the rehabilitation of orphaned rabies vector species and the means allowed for the taking of nuisance animals. The Rules and Regulations Governing Wildlife Rehabilitation changes pertain to sub-permittee prohibitions

regarding handling raptors and rabies-vector species, Level 1 apprenticeship requirements, application requirements, non rabies vector rehabilitated release exceptions, and rabies vector orphaned, young rehabilitation exceptions.

Where to find the specific language changes: Drafts www.dem.ri.gov

- 1. RI Hunting Regulations for the Waterfowl Season 2010-2011 – Newly Adopted**
- 2. RI Falconry Regulations for the 2010-2011 Season – Newly Adopted**
- 3. Rules and Regulations Governing Nuisance Wildlife Control Specialists – Newly Adopted**
- 4. Rules and Regulations Governing Wildlife Rehabilitation – Newly Adopted**

Economic Impact:

Per RIGL §42-35.1-3

1. The proposed regulations for waterfowl and falconry governs recreational sporting activities. The Nuisance Wildlife Control Specialist regulations and the Wildlife Rehabilitation regulations concern the handling and disposition of nuisance species and rehabilitation species candidates and the impact upon species populations and public health. The Department believes that none of its proposed rule making has a potential for causing a direct financial impact upon either small business or any municipality.
2. There are no anticipated reporting, recordkeeping, or other administrative costs required for compliance with the proposed rules.
3. DEM has not identified a less intrusive or less costly alternative method to achieve the requirements mandated upon the Department to regulate the natural resources of this State.

Regulatory Flexibility:

Per RIGL §42-35.1-4

DEM has considered, without limitation, each of the following methods of reducing the impact of the proposed regulation on small businesses and determined that there is no alternative approach that would be as effective and less burdensome, given the requirements of upon the Department to regulate the natural resources of this State:

- 1) The establishment of less stringent compliance or reporting requirements for small businesses;
- 2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- 3) The consolidation or simplification of compliance or reporting requirements for small businesses;
- 4) The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and
- 5) The exemption of small businesses from all or any part of the requirements contained in the proposed regulation .

These rules to implement the Tolling Statute will likely aid small businesses by foregoing the cost and time associated with reapplication for permits that would otherwise have expired prior to June 30, 2011.

If you have any questions or comments on the proposed Rules, please contact one of the following:

Larry Mouradjian, Assistant Director

Christine.Dudley@dem.ri.gov

401-222-4700 Ext 2414

Gary Powers, Deputy Chief Legal Counsel

Gary.powers@dem.ri.gov

401-222-4700 Ext 2308

July 28, 2011

**NOTIFICATION FORM
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF FISH AND WILDLIFE
SMALL BUSINESS REGULATORY IMPACT AND REGULATORY
FLEXIBILITY ANALYSIS**

Title of Regulation: RHODE ISLAND HUNTING REGULATIONS FOR THE
WATERFOWL SEASON 2011-2012

RHODE ISLAND FALCONRY REGULATIONS FOR
THE 2011-2012 SEASON

RULES AND REGULATIONS GOVERNING NUISANCE WILDLIFE
CONTROL SPECIALISTS

RULES AND REGULATIONS GOVERNING WILDLIFE
REHABILITATION

Statutory Authority: RIGL Chapter 31.1 SMALL BUSINESS REGULATORY FAIRNESS IN
ADMINISTRATIVE PROCEDURES

The Regulation:

The purposed rule changes would amend the regulations governing the seasons and bag limits for waterfowl hunting activities, falconry regulations and access availability for recreational users only. The proposed changes for wildlife control specialists and rehabilitators would amend the qualifications of operators and requirements as to the handling of species.

Expected Small Business Impact:

There will be no deleterious effects on small businesses. The proposed regulations will, if anything, improve the financial climate for small businesses that might assist recreational users in the increase in trade of needed commodities.

Regulatory Flexibility Analysis:

The RIDFW has determined that no small businesses may be impacted by the proposed regulations.



**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

DIVISION OF FISH AND WILDLIFE



**RULES AND REGULATIONS GOVERNING NUISANCE WILDLIFE
CONTROL SPECIALISTS**

Draft 2011

AUTHORITY: These regulations are adopted pursuant to Sections 20-1-18, and 20-1-22, in accordance with the requirements of the Administrative Procedures Act, Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF FISH AND WILDLIFE

**RULES AND REGULATIONS GOVERNING NUISANCE WILDLIFE
CONTROL SPECIALISTS**

TABLE OF CONTENTS

RULE 1	PURPOSE	3
RULE 2	AUTHORITY	3
RULE 3	ADMINISTRATIVE FINDINGS	3
RULE 4	APPLICATION	3
RULE 5	DEFINITIONS	3
RULE 6	REGULATIONS	5
RULE 7	VIOLATIONS	11
RULE 8	SUPERCEDED RULES AND REGULATIONS	11
RULE 9	SEVERABILITY	11
RULE 10	APPEAL & HEARING PROCEDURE	11
RULE 11	EFFECTIVE DATE PAGE	12

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF FISH AND WILDLIFE

**RULES AND REGULATIONS GOVERNING
NUISANCE WILDLIFE CONTROL SPECIALISTS**

RULE 1 - PURPOSE

The purpose of these regulations is to establish the standards under which “nuisance wildlife control specialists” may be permitted to conduct the capture, handling, disposition, exclusion and other activities as related to wildlife protected by the Department under Rhode Island General Laws (RIGL) Chapter 20-1.

RULE 2 - AUTHORITY

These rules and regulations are promulgated pursuant to authority vested in the Director of the Department of Environmental Management under RIGL Section 20-1-18 and Chapter 42-17.1 and in accordance with the requirements of the administrative procedures act, Chapter 42-35.

RULE 3 - ADMINISTRATIVE FINDINGS

The proper handling and disposition of nuisance wildlife requires special knowledge, skills, and facilities not possessed by the general public. Specially trained individuals, collectively called nuisance wildlife control specialists, provide services to the general public for the capture, handling, disposition, and exclusion of nuisance wildlife from properties and homes.

RULE 4 - APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purpose of state law, regulations, goals, and policies.

RULE 5 - DEFINITIONS

Wherever used in these rules and regulations the following terms shall be construed as follows:

- 5.1 “Animal” and “animals” means every living creature except a human being.
- 5.2 “Bite or bitten” means that the skin has been penetrated by an animals’ tooth or teeth.
- 5.3 “Department or DEM” means the Rhode Island Department of Environmental Management.
- 5.4 “Director” means the Director of the Rhode Island Department of Environmental Management, or his/her duly authorized agent or agents.
- 5.5 “Division” means the Division of Fish & Wildlife of the Rhode Island Department of Environmental Management.
- 5.6 “Endangered Species” shall mean any animal so declared by the United States secretaries of the interior or commerce under the provisions of the Federal Endangered Species Conservation Act or animal so declared by the director of

the Rhode Island Department of Environmental Management pursuant to chapter 34 of title 42.

- 5.7 “Environmental Police Officer” means the Chief of the DEM Division of Law Enforcement, the deputy chiefs and all officers of the Division of Law Enforcement.
- 5.8 “Euthanasia” for the purpose of nuisance wildlife means the methods as described in the “2000 report of the AVMA panel on Euthanasia” published in the *Journal of the American Veterinary Medical Association*, vol. 218, no. 5.
- 5.9 “Fish and Wildlife” (F&W) means the Department of Environmental Management’s Division of Fish and Wildlife.
- 5.10 “Furbearer” means all mammals as defined under RIGL 20-16-1.
- 5.11 “Manual for Rabies Management and Protocols” means the manual adopted 1997 and revised May 1998 by the Rhode Island Rabies Control Board and does not include any amendments there to after said date.
- 5.12 “Person” means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, municipality, or other government entity or other legal entity.
- 5.13 “Rabies Vector Species” or “RVS” means those wildlife species that have been identified as the most common carriers of rabies virus currently including raccoons, skunks, bats, woodchucks, and foxes.
- 5.14 “Rabies Vector Species Handbook” means the most current manual adopted by the DEM Division of Fish and Wildlife on December 2, 2005 and does not include any amendments there to after said date.
- 5.15 “Site of Capture” means the parcel of land on which the problem animal was captured and which is owned or leased by the person who captured the problem animal or who engaged a wildlife control specialist to affect such capture.
- 5.16 “State Manual” means the most current RI Nuisance Wildlife Control Specialist Handbook prepared by the Division of Fish & Wildlife and adopted 2006 and does not include any amendments there to after said date.
- 5.17 “Translocation” means the transport and release of animals from one location to another.
- 5.18 “Nuisance Wildlife Control Specialist” or “Permittee” means any person issued a permit pursuant to the provisions of Sections 20-1-18 and 20-1-22, for the control of nuisance wildlife.
- 5.19 “Wildlife Control Services” means to harass, repel, evict, exclude, capture, posses, transport, liberate, destroy; or attempt to harass, repel, evict, exclude, capture, posses, transport, liberate or destroy a problem wild animal. This is to

include the disturbance, removal, or destruction or attempted disturbance, removal, or destruction of nests, dens, lodges, or burrows.

- 5.20 “Wildlife Rehabilitation” means the practice of providing care for injured, orphaned or sick wildlife including their capture, housing, feeding, emergency treatment for the primary purpose of release into the wild.

RULE 6 - REGULATIONS

The Division of Fish and Wildlife shall issue Wildlife Control Specialist Permits to persons meeting the criteria set forth in these regulations to provide nuisance wildlife control services to the general public.

- 6.1 No person, unless otherwise authorized by state or federal law, shall engage in the business of providing wildlife control services, with or without an associated fee, on the property of another, without first obtaining a wildlife control specialist permit from the Department of Environmental Management.
- 6.2 A person may qualify to obtain a wildlife control specialist permit from the DEM upon meeting all of the following requirements:
- a) They have submitted a complete application on forms provided by the DEM.
 - b) They provide proof of being 18 years of age or older.
 - c) They have successfully completed a written examination administered by the DEM based on information in these regulations and the State Manual. A person must attain a passing grade of 80 percent.
 - d) They possess a current Rhode Island trapping license.
 - e) They have not been convicted of a nuisance wildlife-related violation or do not have a disposition filed before a state, federal or municipal court or administrative tribunal of competent jurisdiction anywhere in the United States or Canada within three years before submitting an application or, had their NWCS license revoked in Rhode Island under the provisions of these regulations within three years before submitting an application.
 - f) They have paid the permit fee.
- 6.3 All initial permit applications shall contain the following information:
- a) The applicants date of birth;
 - b) The applicants name, address, and daytime telephone number;
 - c) If the application is a corporation, partnership, business, commercial entity, club, organization, or association, whether public or private, the name, address, and telephone number of the president, director, or principal officer;
 - d) The applicants current Rhode Island trapping license number;
 - e) The applicant’s signature.
- 6.4 Renewal applications shall include information as listed in 3 (b) through (e) above.

- 6.5 A fee shall be charged for the R.I. NWCS Handbook to cover the cost of printing, shipping and handling.
- 6.6 Applications for NWCS permit may be denied when:
- a) The applicant has been convicted of a nuisance wildlife-related violation or currently has a disposition filed before a state, federal or municipal court or administrative tribunal of competent jurisdiction anywhere in the United States or Canada within three years preceding the application date;
 - b) The applicant fails to provide all required information on the application or to provide truthful information;
 - c) The applicant fails to pay the required permit fee.
- 6.7 Nuisance Wildlife Control Specialist applications under this section must be signed by the permittee. As a condition of signing the application, the permittee agrees:
- a) To comply with all relevant provisions of the law including but not limited to RIGL Title 4 and Title 20, and all applicable conditions and restrictions of the permit;
To hold the state harmless for any damage, injury, or disease caused by any wildlife captured, transported, euthanized, or held under the permit, to include treatment for and prevention of such and to assume all liability associated with this permit
 - b) Permittees assume all liability associated with this permit.
- 6.8 The expiration date for the wildlife control operators permit shall be midnight of December 31 in the calendar year. Permits must be renewed annually and are only valid after receipt of completed renewal application and permit fee. Permits that are not renewed after a period of six months shall be considered inactive. Applicants who have allowed their permit to become inactive must reapply for a new permit in accordance with Rule 6.2.
- 6.9 A person who fails the written examination may retake the examination one additional time after 60 days but not again for six months if failing the test the second time.
- 6.10 Any person who at the time of the adoption of these regulations possesses a Scientific Collectors Permit for the purpose of providing nuisance wildlife control services shall be provisionally authorized to conduct wildlife control services until end of the calendar year of adoption of these regulations. All Provisional Permit holders must abide by Rules and Regulations Regarding Nuisance Wildlife Control Specialists as adopted with the exception of the written exam. Successful completion of the written exam is required as a condition of permit renewal.

- 6.11 Municipal animal control officers, when acting as an agent for the municipality, on land owned or leased by the municipality, shall be exempted from the permit and examination requirements of these regulations. Municipal animal control officers, when acting as an agent for the municipality in response to situations involving potentially rabid animals within their communities, are exempted from NWCS permit requirements.
- 6.12 The wildlife control specialist permit shall authorize the permittee to control following species or groups of species only: striped skunk, opossum, raccoon, red fox, gray fox, coyote, bats, moles, muskrat, gray squirrel, red squirrel, flying squirrels, chipmunk, woodchuck, rats, mice, voles, cottontail rabbits, weasels, mink, pigeons, starlings, English sparrows, monk parakeet, snapping turtle, and snakes. The Director or his or her designee may authorize a permittee to control or authorize the disposition of other species not listed above at such times and under such conditions as he or she deems appropriate or necessary.
- 6.13 The Director may, under his or her regulatory authority, suspend the control of certain species or certain activities when he or she deems it is necessary to ensure human health or the health of wildlife or domestic animals.
- 6.14 Translocation of any nuisance mammal captured alive is prohibited. Mammals captured alive must be euthanized in a humane manner or released on the site of capture. The transportation of captured animals to an off-site location only for the purpose of euthanization is permitted. Animals may not be held in captivity for purposes of release or disposal for more than 24 hours. Under the authority of the Rhode Island Department of Health or the DEM, for public health concerns, animals may be held in captivity for a longer period of time.
- 6.15 Any captured animal showing symptoms of disease must be euthanized. Diseased animals shall not be released after capture. The handling and disposition of “Rabies Vector Species” must be done in accordance with the most current Rhode Island Rabies Vector Species Handbook. The Department of Health will only test those animals that meet the guidelines established in the most recent RVS Handbook. Wildlife Control Specialists are not permitted to handle any rabies vector species (skunk, raccoon, foxes, woodchuck, bats) that have bitten or caused potential exposure to a human or domestic animal unless under strict adherence to the Manual for Rabies Management and Protocols. NWCS must submit specimens to the R. I. Department of Health accompanied by forms provided by the DOH. Additionally, NWCS must report to the local Animal Control Officer any exposure or potential exposure of a domestic animal and/or the DOH any human exposure.
- 6.16 Orphaned or injured animals that are not identified as rabies vector species may be transported to licensed wildlife rehabilitator for care and eventual release into the wild. Apparently healthy animals are those that show no sign of behavioral, neurological, or locomotive impairments, or those animals without visible

wounds. Only apparently healthy orphaned young of the year (less than 10 weeks of age) rabies vector species (raccoons, foxes, skunks, and woodchucks) and bats of any age may be transferred to a currently licensed rehabilitation facility authorized to rehabilitate rabies vector species (Level II-X) and only if no human or animal exposure has occurred, as determined by the Rhode Island Department of Health (DOH). For purposes of rehabilitation, transportation of rabies vector species must be in accordance with protocols set forth in the Division of Fish and Wildlife Rabies Vector Species Handbook. The rehabilitation of coyotes, beaver, bear, bobcat, fisher, otter, mink and porcupine must be pre-approved by the DEM and may only be transported to and rehabilitated at approved facilities only.

- 6.17 No live animals taken under the provisions of a wildlife control specialists permit shall be kept, tamed, used for propagation purposes, sold, offered for sale, traded, or bartered.
- 6.18 Permittees may employ other permittees to assist in nuisance wildlife control services. Employees conducting nuisance wildlife services as defined in Rule 5 of these regulations must have a current R.I. NWCS permit.
- 6.19 Permittees must file an annual report with the Division of Fish and Wildlife at the end of each calendar year. The report must be submitted at time of renewal for the preceding calendar year and shall be on forms provided by the Department. The report shall require the permittee to record all information requested on the form including: the species of wildlife handled, the number of individual animals, the disposition of animals, and other information as required. Reports must be made available for inspection by a Division of Law Enforcement Environmental Police Officer (EPO) or Division of Fish and Wildlife official at any reasonable time.
- 6.20 Revocation Criteria

Applications and/or permits for NWCS may be denied, revoked or suspended when:

- d) The applicant or permittee has been convicted of a nuisance wildlife-related violation in Rhode Island or other state within three years preceding the application date;
- e) The applicant or permittee failed to provide all required information on the application or to provide truthful information;
- f) The applicant or permittee failed to pay the required permit fee;
- g) The permittee has failed to submit the annual report or;
- h) The failure of the permittee to comply with the conditions of the permit or of any violation of the provisions of Title 20 or other appropriate sections of the General laws of Rhode Island and these regulations.

- 6.21 Methods of Take

Permittees may only take or attempt to take nuisance animals by the following means:

For mammals:

- a) Any trap type as authorized for use under the most current Hunting and Trapping Regulations adopted pursuant to RIGL Sections 20-1-2; 20-1-4; 20-1-8; 20-1-12; and 20-1-13; and Chapters 42-17.1; 20-15; and 20-18, and in accordance with Chapter 42-35, Administrative Procedures Act, of the Rhode Island General Laws of 1956, as amended or as otherwise permitted by Rhode Island General Law.
- b) Common mouse or rat traps and glue boards for small mammals.
- c) Other allowable methods include: shooting with a firearm when in accordance with all state and local laws, hand nets, hand capture, and noose poles. Also fumigant cartridges for the control of woodchucks, and approved rodenticides to control rats and mice when in accordance with provisions of a current Rhode Island commercial Category 7d (Vertebrate) pesticide applicators license.

For birds:

- a) Pigeon, starling, and sparrow-type cage traps.
- b) The use of nontoxic and toxic repellents that are registered for use in Rhode Island may be used to control pigeons, starling, English sparrow, or other bird species for which a federal depredation permit has been issued, in accordance with provisions of a current Rhode Island commercial Category 7d (Vertebrate) pesticide applicator license.
- c) Other allowable methods include: shooting with a firearm when in accordance with all applicable federal, state, and local laws, hand nets, and hand capture.

For snapping turtles:

- a) Wire or twine hoop or funnel traps when set in such a manner that captured turtles or other animals may reach the surface to breath, or by snagging, hand nets, or hand capture. Turtle traps must have a metal tag attached, which, at a minimum, bears the trapper's name and address.

- 6.22 Permittees must possess a valid Rhode Island firearms hunting license, or DEM Pistol/Revolver Certification Card (Blue Card) if using firearms while performing wildlife control services. The use of firearms is subject to all state and local restrictions.
- 6.23 Nothing in these regulations permits the use of regulated medical supplies including but not limited to syringes and drugs without specific conformance with Section R21-28-CS-4 of the Rhode Island Department of Health Rules and Regulations governing Hypodermic Needles, Syringes, and Other Such Instruments and Drugs.

- 6.24 Obtaining a permit pursuant to these regulations does not preclude the permittees conformance with such other federal, state or local requirements for licensure certification or permits that may be required.
- 6.25 Issuance of a permit does not exempt the permittee from compliance with the provisions of any other local, state, or federal statutes, regulations or ordinances.
- 6.26 The capture, handling, or harassment of any federally listed endangered species is prohibited.

RULE 7 – VIOLATIONS

Any violation pursuant to the provisions of Title 20-1-16 of the General Laws of Rhode Island and the rules and regulations herein, either by a permittee or a sub-permittee working under said permittee may be cause for imposing penalties in accordance with the provisions of the above mentioned statute, as well as revocation of existing permit(s) of both the sub-permittee and responsible permittee.

RULE 8 - SUPERSEDED RULES AND REGULATIONS

On the effective date of these rules and regulations, all previous rules and regulations and any policies regarding the administration and enforcement of nuisance wildlife control operators shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

RULE 9 - SEVERABILITY

If any provision of these Rules and Regulations, or application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

RULE 10 - APPEAL & HEARING PROCEDURES

Opportunity for Hearing

A. Denials -- Any person who feels aggrieved by a decision of the permitting agency relating to his/her application for a permit, permit renewal, or other approval may appeal to the Administrative Adjudication Division, for review of the subject decision.

B. Violations -- Any person who feels aggrieved by a notice of violation concerning any of the provisions of these rules, may request a hearing before the Administrative Adjudication Division, subject to the provisions of R.I.G.L. 42-17.1-2(u).

C. Hearings and Administrative Procedure -- Pursuant to the authority granted to the Department in Chapter 42-17.7-9

1. Any person who seeks an adjudicatory hearing in order to contest an enforcement action which alleges violation(s) of these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island, 02908 within twenty (20) days of receipt of the contested agency enforcement action.
2. Any person who seeks an adjudicatory hearing relative to the denial of a permit or sub-permit arising under these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division 235 Promenade Street, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.

RULE 11 - EFFECTIVE DATE

The foregoing Rules and Regulations Governing Wildlife Control Operators after due notice, are hereby adopted and filed with the Secretary of State this XXth day of XXXX, 20____ to become effective twenty (20) days thereafter, in accordance with the provisions of Chapter 42-35, 42-17.1, and 42-17.6 of the General laws of Rhode Island of 1956, as amended.

Janet Coit, Director
Department of Environmental Management

Notice Given on:

Public Hearing held:

Filing Date:

Effective Date: 20 days from filing